



22 OCT 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Shahan Islam
Rosenman & Colin
575 Madison Avenue
New York, NY 10022-2585

In re Application of	:	DECISION ON
CURTIS, Keith Edwin, et al.	:	
Application No.: 09/720,570	:	PETITIONS UNDER
PCT No.: PCT/AU99/00511	:	
Int. Filing Date: 24 June 1999	:	37 CFR 1.183
Priority Date: 24 June 1998	:	
Attorney Docket No.: 3128/FBR	:	AND
For: VIRTUAL EPROM SIMULATOR	:	
APPARATUS	:	37 CFR 1.137(b)

This is a decision on applicants' "Petition For Revival of an Applicatio[n] for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office (USPTO) on 23 July 2002.

BACKGROUND

On 24 June 1999, applicants filed international application PCT/AU99/00511, which claimed a priority date of 24 June 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 29 December 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 24 January 2000, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 26 December 2000 (24 December 2000 was a Sunday and 25 December 2000 was a holiday).

On 21 December 2000, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 12 March 2001, the USPTO mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 30 May 2002, the Office mailed a Notice of Abandonment indicating the application went abandoned for failure to timely reply to the Notice to File Missing Parts mailed 12 March 2001.

On 23 July 2002, applicants submitted the instant petitions under 37 CFR 1.137(b) and 37 CFR 1.183, which were accompanied by a statement from Shahan Islam.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) the required reply, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicants have made the required statement and have paid the petition fee. A terminal disclaimer is not required as the international application was filed on or after 08 June 1995. However, applicants' reply is deficient. The required reply is an oath or declaration in compliance 37 CFR 1.497 and if the inventors refuse to execute the oath or declaration or cannot be reached after a diligent effort, as alleged, a petition under 37 CFR 1.47(b). Applicants have filed a petition for suspension of the rules under 37 CFR 1.183. Applicants have not explained why a petition under 37 CFR 1.47(b) would not satisfy their needs.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

Applicants' petition under 37 CFR 1.183 is **DISMISSED** without prejudice.

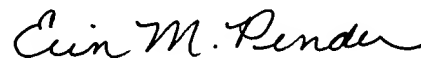
The application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)."

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.



Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration



Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459